IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 645 (MS) OF 2006

Dhan Singh,
S/o Sri Soban Singh,
R/o Village-Devli, Patti-Khasparja,
Tehsil & District – Almora. .....Petitioner.

Versus

1. Civil Judge (Junior Division), Almora, District-Almora.
2. Bhawan Singh, S/o Sri Narayan Singh,
   R/o Village-Devli, Patti-Khasparja,
   Tehsil & District-Almora.

.....Respondents.

Dated: 06.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Sudhir Singh, Advocate for the petitioner and Standing Counsel for the respondent no.1. Both the parties have agreed that let the matter be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 18th April, 2006 passed by the respondent no. 1.

Briefly stated, a suit was filed by the petitioner for grant of permanent injunction being Suit No. 52 of 2004 Dhan Singh Vs. Bhawan Sigh before the Court of Civil Judge (Junior Division), Almora. During the pendency of the case, the respondent no. 2 has filed an application for the spot inspection by a Survey Commissioner and the same was

allowed on 7th March, 2005. Petitioner has objected to the survey report and filed his objections on the ground that he has not made correct measurement, therefore, there was a difference between the report of Survey Commissioner as well as the settlement map. He has filed another application, which has been rejected on the ground that sufficient ground has not been given. However, liberty is given to the petitioner to file a fresh application giving fresh grounds, if such an application is filed, the Court below in order to avoid the complications and to solve the controversy for ever shall consider the said application on merits, if possible making a Survey Commission in accordance with the application filed by the petitioner so far as indicating the difference between the settlement map and the report of the Survey Commissioner.

Subject to the aforesaid, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

06.06.2006
Rathour